IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI

RIA SCHUMACHER)
Individually And On Behalf Of)
All Others,)
)
Plaintiffs,)
) Case No.: 16-04078-CV-C-NKL
VS.)
) JURY TRIAL DEMANDED
SC DATA CENTER, INC.)
)
Defendant.)
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MOTION FOR CLARIFICATION

COMES NOW, the Plaintiff by and through counsel, and for this Motion for Clarification states in support:

- 1. On or about January 11, 2019, the parties held a telephone conference with the Court to address the need to file updated briefing addressing the Defendant's Motion to Dismiss (Docs. 16, 17) previously filed on July 15, 2016.
- 2. The parties agreed that the Plaintiff would be given an opportunity to file an updated Response to the Defendant's previously filed Motion to Dismiss and the Defendant would then be given an opportunity to file an updated Reply.
- 3. Given this understanding, Plaintiff filed a Response (Doc. 96) to the Defendant's Motion to Dismiss. Given the Plaintiff's understanding that the Response was to address the previously filed Motion to Dismiss, for which there were no exhibits, the Plaintiff filed their Suggestions in Opposition on February 15, 2019. Plaintiff did not address the exhibits attached to the Defendant's Reply as those documents were not attached to or referenced in the original Motion to Dismiss.

- 4. In the Defendant's Reply (Doc. 97), filed March 8, 2019, the Defendant cites to exhibits previously attached to their original Reply (Doc. 34); but not filed with their updated Reply (Doc. 97). Plaintiff's counsel was under the impression that the updated response and reply were to take the place of the previously filed briefing.
- 5. Plaintiff's counsel respectfully requests clarification from the Court regarding this issue.

WHEREFORE, Plaintiff requests the Court clarify whether the previously filed Reply and exhibits of the Defendant will be considered in deciding the Defendant's Motion to Dismiss.

Respectfully submitted,

By: /s/ Jayson A. Watkins
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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing was sent on March 20, 2019, via ECF to all Counsel of Record.

/s/ Jayson A. Watkins
Attorney for Plaintiff